



Loretta Cannistraci, Director
Department of Information Systems
The Salem Public Schools
City of Salem

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E-Mail: lorettacannistraci@salemk12.org

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APR 10 2013

FCC Mail Room

April 8, 2013

FCC
Office of the Secretary
445 12th Street SW
Washington, DC 20554

Reference to CC Docket No. 02-6

I am requesting review of an appeal denied by USAC dated March 28, 2013. Enclosed please find a copy of the appeal denial dated March 28, 2013 and received on April 4, 2013 and the Notification of Commitment Adjustment Letter dated January 07, 2013. Also included is documentation that I contacted USAC for a copy of the Notification of Commitment Adjustment Letter dated January 7, 2013 since the district did not receive the letter. The service provider had received the letter. The district finally received the letter after several weeks had passed but the letter was still dated January 7, 2013.

Also enclosed please find a copy of the letter of appeal dated February 6, 2013 and submitted to the Schools and Libraries Division – Correspondence Unit. This letter explains the situation as follows:

The attached matrix (included with the appeal letter) was submitted through the process of a Schools and Libraries Program routine review. The factors considered were the Switched Ethernet Service cost, ease of transition, and experience. Service is a cost since this is what the vendor charges the district. Thirty points was given to Merrimack Education Center because the cost was the least. The other two vendors received fewer points because costs associated with the service were higher. Below the chart is clarification for ease of transition. Ease of transition includes a cost for changing vendors. The more points given to a vendor, the less cost to transition and the less transition issues that will be encountered. The costs of transitioning can be for non-recurring charges as well as for staff time. Experience, the third factor, is not a direct cost factor but establishing a relationship with another vendor does cause some issues and impacts staff time which is an indirect cost factor. Therefore, cost is the major factor and accounts for at least 60% of the total points. Additionally, cancelling this application at this time would have a major impact on the budget of the Salem Public Schools.

In summary, price was the primary factor in choosing a service provider. Please note that I combined the MRC and NRC as the heaviest weighted factor in my bid matrix (The website does not indicate that this cannot be done). Please review the denial of this appeal.

Sincerely,

Loretta Cannistraci

Loretta Cannistraci, Ed.D

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Universal Service Administrative Company
Schools & Libraries Division

FCC Mail Room

Administrator's Decision on Appeal – Funding Year 2010-2011

March 28, 2013

Loretta Cannistraci
Salem Public School District
29 Highland Ave
Salem, MA 01970-2116

Re: Applicant Name: SALEM PUBLIC SCHOOL DISTRICT
Billed Entity Number: 120458
Form 471 Application Number: 743878
Funding Request Number(s): 2008012
Your Correspondence Dated: February 06, 2013

After thorough review and investigation of all relevant facts, the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC) has made its decision in regard to your appeal of USAC's Funding Year 2010 Notification of Commitment Adjustment Letter for the Application Number indicated above. This letter explains the basis of USAC's decision. The date of this letter begins the 60 day time period for appealing this decision to the Federal Communications Commission (FCC). If your Letter of Appeal included more than one Application Number, please note that you will receive a separate letter for each application.

Funding Request Number(s): 2008012
Decision on Appeal: **Denied**
Explanation:

- FCC rules require that applicants select the most cost-effective product or service with the price of that product or service to the applicant being the primary factor in the vendor selection process. In your bid evaluation matrix which you provided with your letter of appeal and earlier during a SLD Special Compliance Review, the factor with the highest point total was "Experience". A vendor's experience is not a measure of cost. Since price was not the primary factor in the vendor selection process, your appeal is denied.
- FCC rules require that applicants select the most cost-effective products and/or services offering with price being the primary factor. Applicants may take other factors into consideration, but in selecting the winning bid, price must be given more weight than any other single factor. See 47 C.F.R. sec. 54.511(a); also,

Request for Review by Ysleta Independent School District, et al., Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc., CC Docket Nos. 96-45, 97-21, Order, 18 FCC Rcd 26407, 26429, FCC 03-313 para. 50 (rel. Dec. 8, 2003). Ineligible products and services may not be factored into the cost-effective evaluation. *See* Common Carrier Bureau Reiterates Services Eligible for Discounts to Schools and Libraries, CC Docket No. 96-45, Public Notice, 13 FCC Rcd 16570, DA 98-1110 (rel. Jun. 11, 1998).

If your appeal has been approved, but funding has been reduced or denied, you may appeal these decisions to either USAC or the FCC. For appeals that have been denied in full, partially approved, dismissed, or canceled, you may file an appeal with the FCC. You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be received or postmarked within 60 days of the date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD section of the USAC website or by contacting the Client Service Bureau. We strongly recommend that you use the electronic filing options.

We thank you for your continued support, patience and cooperation during the appeal process.

Schools and Libraries Division
Universal Service Administrative Company



Loretta Cannistraci, Director
Department of Information Systems
The Salem Public Schools
City of Salem

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29 Highland Avenue • Salem, Massachusetts 01970

Tel. (978) 740-1158 Mail Room (978) 825-5541
E-Mail: lorettacannistraci@salemk12.org

February 6, 2013

From:
Salem Public School District
Loretta Cannistraci
Director of Information Systems
29 Highland Avenue
Salem, MA 01970-2116

Phone: 978-740-1158
Fax: 978-825-5541
Email: lorettacannistraci@salemk12.org

To:
Letter of Appeal
Schools and Libraries Division – Correspondence Unit
100 S. Jefferson Road
P. O. Box 902
Whippany, NJ 07981

This letter is an appeal for the following application:

| | |
|--------------------------------------|--------------|
| Commitment adjustment decision date: | 01/07/2013 |
| Form 471 Application Number: | 743878 |
| Funding Year: | 2010 |
| Applicant Form Identifier: | MEC_1011_471 |
| FCC Registration Number: | 0011970878 |
| Billed Entity Number: | 120458 |

The Notification of Commitment Adjustment Letter was received January 7, 2013 by the service provider and shared with the Salem Public Schools district.

Funding commitment adjustment from Commitment Adjustment Letter (full copy attached):

After a thorough investigation, it has been determined that this funding commitment must be rescinded in full. During a review, it was determined that the price of eligible products and services was not the primary factor in the vendor selection process. This determination was based on the bid evaluation sheet provided by the applicant which indicated that Technical Expertise was weighted at 40 percent and that Service and Ease of Transition were weighted at 30% each. Price was not weighted at all. FCC rules require that applicants select the most cost-effective product and/or service offering with price being the primary factor in the vendor selection process. Applicants may take other factors into consideration, but in selecting the winning bid, price must be given more weight than any other single factor. Ineligible products and services may not be factored into the cost-effective evaluation. Since price was not the primary factor in the vendor selection process, the commitment has been rescinded in full and USAC will seek recovery of any improperly disbursed funds from the applicant.

Funding commitment adjustment explanation:

The attached matrix was submitted through the process of a Schools and Libraries Program routine review. The factors considered were the Switched Ethernet Service cost, ease of transition, and experience. Service is a cost since this is what the vendor charges the district. Thirty points was given to Merrimack Education Center because the cost was the least. The other two vendors received fewer points because costs associated with the service were higher. Below the chart is clarification for ease of transition. Ease of transition includes a cost for changing vendors. The more points given to a vendor, the less cost to transition and the less transition issues that will be encountered. The costs of transitioning can be for non-recurring charges as well as for staff time. Experience, the third factor, is not a direct cost factor but establishing a relationship with another vendor does cause some issues and impacts staff time which is an indirect cost factor. Therefore, cost is the major factor and accounts for at least 60% of the total points. Additionally, cancelling this application at this time would have a major impact on the budget of the Salem Public Schools.

Sincerely,



Loretta Cannistraci

CC: Joseph DiFonzo, Merrimack Education Center

| 470 # | Factors | Total Points Available | Vendor 1 Merrimack Education Center | Vendor 2 Data Network Solutions | Vendor 3 US Telecom Group |
|-----------------|---|------------------------|-------------------------------------|---------------------------------|---------------------------|
| 727050000788313 | Switched Ethernet Service for Internet Access | 30 | 30 | 20 | 20 |
| Internet Access | Ease of Transition | 30 | 30 | 0 | 0 |
| | Experience | 40 | 40 | 0 | 0 |
| | TOTAL POINTS | 100 | 100 | 20 | 20 |

Ease of Transition: The higher the points, the less transition issues and cost.

Matrix Chart for E-Rate: 2010 - 2011

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Message

Jan 31, 2013 5:03 PM

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From: **Loretta Cannistraci**

To: **Loretta Cannistraci**

APR 16 2013

FCC Mail Room

Subject: Case # 22-459879

spoke with Sherry on 01/29/2013

I was looking for the January 7 letter denying MEC for 2010. It was received by MEC who shared it with me but I have not as yet received a copy of the letter.

It was referred to another department to send the letter out to me since I have not received it.

Loretta

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Loretta Cannistraci, Ed.D  
Director of Information Systems  
Salem Public Schools  
29 Highland Avenue  
Salem, MA 01970

[lorettacannistraci@salemk12.org](mailto:lorettacannistraci@salemk12.org)  
978-740-1158 (office)  
978-360-0083 (cell)  
978-825-5541 (fax)

"The educational future will belong to those who can grasp the significance of instructional technology." - James Finn

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**USAC**

Universal Service Administrative Company

Schools and Libraries Division

## Notification of Commitment Adjustment Letter

Funding Year 2010: July 1, 2010 - June 30, 2011

January 07, 2013

Loretta Cannistraci  
SALEM PUBLIC SCHOOL DISTRICT  
29 HIGHLAND AVE  
SALEM, MA 01970 2116

|                                  |                            |
|----------------------------------|----------------------------|
| Re: Form 471 Application Number: | 743878                     |
| Funding Year:                    | 2010                       |
| Applicant's Form Identifier:     | MEC_1011_471               |
| Billed Entity Number:            | 120458                     |
| FCC Registration Number:         | 0011970878                 |
| SPIN:                            | 143004624                  |
| Service Provider Name:           | Merrimack Education Center |
| Service Provider Contact Person: | Joseph DiFonzo             |

Our routine review of Schools and Libraries Program (Program) funding commitments has revealed certain applications where funds were committed in violation of Program rules.

In order to be sure that no funds are used in violation of Program rules, the Universal Service Administrative Company (USAC) must now adjust your overall funding commitment. The purpose of this letter is to make the required adjustments to your funding commitment, and to give you an opportunity to appeal this decision. USAC has determined the applicant is responsible for all or some of the violations. Therefore, the applicant is responsible to repay all or some of the funds disbursed in error (if any).

This is NOT a bill. If recovery of disbursed funds is required, the next step in the recovery process is for USAC to issue you a Demand Payment Letter. The balance of the debt will be due within 30 days of that letter. Failure to pay the debt within 30 days from the date of the Demand Payment Letter could result in interest, late payment fees, administrative charges and implementation of the "Red Light Rule." The FCC's Red Light Rule requires USAC to dismiss pending FCC Form 471 applications if the entity responsible for paying the outstanding debt has not paid the debt, or otherwise made satisfactory arrangements to pay the debt within 30 days of the notice provided by USAC. For more information on the Red Light Rule, please see "Red Light Frequently Asked Questions (FAQs)" posted on the FCC website at [http://www.fcc.gov/debt\\_collection/faq.html](http://www.fcc.gov/debt_collection/faq.html).



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## TO APPEAL THIS DECISION:

You have the option of filing an appeal with USAC or directly with the Federal Communications Commission (FCC).

If you wish to appeal the Commitment Adjustment Decision indicated in this letter to USAC your appeal must be received or postmarked within 60 days of the date of this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. In your letter of appeal:

1. Include the name, address, telephone number, fax number, and email address (if available) for the person who can most readily discuss this appeal with us.
2. State outright that your letter is an appeal. Identify the date of the Notification of Commitment Adjustment Letter and the Funding Request Number(s) (FRN) you are appealing. Your letter of appeal must include the
  - Billed Entity Name,
  - Form 471 Application Number,
  - Billed Entity Number, and
  - FCC Registration Number (FCC RN) from the top of your letter.
3. When explaining your appeal, copy the language or text from the Notification of Commitment Adjustment Letter that is the subject of your appeal to allow USAC to more readily understand your appeal and respond appropriately. Please keep your letter to the point, and provide documentation to support your appeal. Be sure to keep a copy of your entire appeal including any correspondence and documentation.
4. If you are an applicant, please provide a copy of your appeal to the service provider(s) affected by USAC's decision. If you are a service provider, please provide a copy of your appeal to the applicant(s) affected by USAC's decision.
5. Provide an authorized signature on your letter of appeal.

To submit your appeal to us on paper, send your appeal to:

Letter of Appeal  
Schools and Libraries Division - Correspondence Unit  
100 S. Jefferson Rd.  
P. O. Box 902  
Whippany, NJ 07981

For more information on submitting an appeal to USAC, please see the "Appeals Procedure" posted on our website.

If you wish to appeal a decision in this letter to the FCC, you should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be received by the FCC or postmarked within 60 days of the date of this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. We strongly recommend that you use the electronic filing options described in the "Appeals Procedure" posted on our website. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554.

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## FUNDING COMMITMENT ADJUSTMENT REPORT

On the pages following this letter, we have provided a Funding Commitment Adjustment Report (Report) for the Form 471 application cited above. The enclosed Report includes the Funding Request Number(s) from your application for which adjustments are necessary. See the "Guide to USAC Letter Reports" posted at <http://usac.org/sl/tools/reference/guide-usac-letter-reports.aspx> for more information on each of the fields in the Report. USAC is also sending this information to your service provider(s) for informational purposes. If USAC has determined the service provider is also responsible for any rule violation on the FRN(s), a separate letter will be sent to the service provider detailing the necessary service provider action.

Note that if the Funds Disbursed to Date amount is less than the Adjusted Funding Commitment amount, USAC will continue to process properly filed invoices up to the Adjusted Funding Commitment amount. Review the Funding Commitment Adjustment Explanation in the attached Report for an explanation of the reduction to the commitment(s). Please ensure that any invoices that you or your service provider(s) submits to USAC are consistent with Program rules as indicated in the Funding Commitment Adjustment Explanation. If the Funds Disbursed to Date amount exceeds your Adjusted Funding Commitment amount, USAC will have to recover some or all of the disbursed funds. The Report explains the exact amount (if any) the applicant is responsible for repaying.

Schools and Libraries Division  
Universal Services Administrative Company

cc: Joseph DiFonzo  
Merrimack Education Center

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Funding Commitment Adjustment Report for  
Form 471 Application Number: 743878

|                                            |                            |
|--------------------------------------------|----------------------------|
| Funding Request Number:                    | 2008012                    |
| Services Ordered:                          | INTERNET ACCESS            |
| SPIN:                                      | 143004624                  |
| Service Provider Name:                     | Merrimack Education Center |
| Contract Number:                           | N/A                        |
| Billing Account Number:                    |                            |
| Site Identifier:                           | 120458                     |
| Original Funding Commitment:               | \$121,529.28               |
| Commitment Adjustment Amount:              | \$121,529.28               |
| Adjusted Funding Commitment:               | \$0.00                     |
| Funds Disbursed to Date                    | \$89,479.88                |
| Funds to be Recovered from Applicant:      | \$89,479.88                |
| Funding Commitment Adjustment Explanation: |                            |

After a thorough investigation, it has been determined that this funding commitment must be rescinded in full. During a review, it was determined that the price of eligible products and services was not the primary factor in the vendor selection process. This determination was based on the bid evaluation sheet provided by the applicant which indicated that Technical Expertise was weighted at 40 percent and that Service and Ease of Transition were weighted at 30% each. Price was not weighted at all. FCC rules require that applicants select the most cost-effective product and/or service offering with price being the primary factor in the vendor selection process. Applicants may take other factors into consideration, but in selecting the winning bid, price must be given more weight than any other single factor. Ineligible products and services may not be factored into the cost-effective evaluation. Since price was not the primary factor in the vendor selection process, the commitment has been rescinded in full and USAC will seek recovery of any improperly disbursed funds from the applicant.